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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/025,009	12/19/2001	Martin Wiesler	1944	3574

7590 03/26/2004

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103 East Neck Road  
Huntington, NY 11743

EXAMINER
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NGUYEN, XUAN LAN T

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 03/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/025,009

**Applicant(s)**

WIESLER ET AL.

**Examiner**

Lan Nguyen

**Art Unit**

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 8-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 24 February 2004 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings of figures 1-3 were received on 2/24/04. These drawings are approved.
2. It is noted that the Applicant did not respond to the objections of figures 4, 5, wherein there is no descriptions of "Z" views. The objection is repeated again. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
3. The drawing is further objected to because "30" in figure 7 is pointing to the wrong part.

### ***Specification***

4. The substitute specification has been received and approved. However, there are some errors remained in the substitute specification.
5. The specification is objected to because (note that the pages are of the marked up copy):
  - Page 5, last line, what is the "stable transmission"?
  - Page 15, line 10, "22" should be --42--.
  - Page 16, line 8, "driven wheel 28" should be --support element 38--.

- Page 16, lines 14 and 15, according to figure 5, "60 and 62" are grooves on the support element 38, not the packing 40. Also, the whole paragraph is confusing. It seems that the support element 38 surrounds the driven shaft 42 and in some cases, the support element 38 is inserted through its own grooves 60 and 62?
- Page 17, line 11, "28" should be --42--.
- Page 17, line 12, "34" should be --74--.
- Page 17, line 14, "end surfaces" should be --diameters--.
- Page 17, line 16, "shaft 28" should be --wheel 28--.
- Page 19, line 1, "shaft 28" should be --wheel 28--.

### ***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- The alternative language of "or a servo steering" renders claim 1 indefinite. It is noted that Applicant did not respond to this rejection from the last Office Action. The rejection is repeated above.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-3 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Winter et al. (EP 0759374 A2).

Winter et al. show a transmission-drive unit for a seat adjustment, as in the present invention, comprising: a transmission housing 28; a driven shaft 26 extending outwardly beyond said transmission housing; a driven wheel 24 non rotatably arranged on said driven shaft; a support element 52 which directly at least partially surrounds said driven shaft as shown in figures 1 and 2 without further components between said driven shaft and said supporting element, said driven wheel 24 and said supporting element 52 being arranged axially near one another so that said driven wheel is directly supported against said supporting element when axial force action is applied from outside, as described in page 2, last paragraph, wherein the transmission housing is possibly fractured, then the driven wheel 24 would be free to directly contact the supporting element 52 in order to transmit the force to the supporting part 42.

Re: claim 2, Figure 1 shows the supporting element 52 is arranged between said driven wheel 24 and an inner side of said transmission housing.

Art Unit: 3683

Re: claim 3, Figure 1 further shows a packing 42 which surrounds said transmission housing 28, said supporting element 52 is arranged between said driven wheel 24 and said packing 42.

Re: claim 7, Winter et al. further shows said supporting element 52 being arranged at a distance from said driven wheel 24 which distance is reduced with growing axial force action as described in page 6, lines 12-30 of the translation.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Winter et al.

Winter's drive unit, as rejected in claim 1 above, lacks the supporting element being formed as a part of said housing wall. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Winter's drive unit to make the supporting element as a part of the housing wall, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

Art Unit: 3683

12. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Winter et al. in view of the Applicant's submitted prior art, figure 2.

Winter's drive unit, as rejected in claim 1 above, is silent of a threaded bead formed on said driven shaft. Figure 2 of the submitted prior art teaches a threaded bead 34 formed on driven shaft 42, which has an outer diameter greater than the outer diameter of the driven shaft. Note that the support element 52 of Winter threadedly and directly engaging the threaded shaft 26 of Winter. With a modified driven shaft comprising a bead as taught by figure 2, said bead's outer diameter would be greater than the inner diameter of the supporting element 52. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Winter's drive unit to include a threaded bead on the driven shaft as taught by figure 2 of the submitted prior art in order to provide a more secured connection between the driven shaft and the driven wheel as taught by figure 2 of the submitted prior art.

### ***Response to Arguments***

13. Applicant's arguments filed 2/24/04 have been fully considered but they are not persuasive. Applicant argues that Winter's drive unit comprises a driven wheel that is not directly supported by the supporting element. That is true. The same is also true for the instant invention wherein the driven wheel 28 is not directly supported by the supporting element 38 until there is an axial force pulling on the driven shaft 42.

Winter's driven wheel would be directly supported by the supporting element also in the

Art Unit: 3683

present of an axial force as disclosed in page 2, the last paragraph of the translation.

The rejection is still deemed proper and is repeated above.

### ***Conclusion***

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lan Nguyen whose telephone number is 703-308-8347. The examiner can normally be reached on M-F, 8 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on 703-308-3421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3683

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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*M. C. Graham*  
3/23/2004  
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